THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14442 OF 2006

DATED 10.04.2007

BETWEEN

T.Mahalakshmi

… Petitioner

AND

The Assistant Commissioner/Executive Officer, Sri Durga Nageswaraswamy Vari Devasthanam, Pedakallepalli, Mopidevi Mandal, Krishna District and others.

… Respondents

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ORDER:

The petitioner's husband was a cultivating tenant of agricultural wetland admeasuring Acs.5.91 in survey No.668/P situated at Pedakallepalli of Mopidevi Mandal in Krishna District. The land belongs to Sri Durga Nageswaraswamy Vari Devasthanam of Pedakalepalli. After coming into force of Section 82 of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 as amended by A.P.Act No.27 of 2002, the petitioner's husband gave a letter to the Executive Officer of the temple relinquishing his right as a lessee over an extent of statutory limit of Acs.2.41. He then applied for declaration of landless poor under Rule 3 of the A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity) to the second respondent. By proceedings, dated 14.08.2003, petitioner's husband was declared as landless poor person. He was continuing as tenant by reason of Section 82(2) of the Act. After death of her husband on 22.10.2003, the petitioner made an application to the second respondent on 15.12.2004 requesting to transfer the lease in her favour. While the same was under consideration, first respondent issued impugned auction notice, dated 15.07.2006 proposing to lease out agricultural lands for a period of three years. Aggrieved by which, present writ petition is filed.

The third respondent herein filed counter affidavit. All the allegations made by the petitioner are admitted in the counter. However, it is alleged that the petitioner is not a tenant of the temple, and therefore, auction was conducted and that the son of the petitioner Sri T.Chatteswara Rao participated in the auction and became the highest bidder, who is now cultivating the land.

Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Endowments and learned standing counsel for first respondent. It is no doubt true that by proceedings, dated 14.08.2003, the husband of petitioner was declared landless poor person. The petitioner claimed similar right after his death. However, second respondent did not pass any orders. In the absence of any order, the petitioner cannot be treated as a tenant in view of Rule 9(f) of the Rules. Rule 9(f) of the Rules is to the effect that in the event of death of the lessee, with the permission of the executive authority, the legal heirs may enjoy the balance lease period on the same terms but the lease is not transferable. The petitioner, therefore, cannot be said to have any right to enforce in this writ petition.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

10.04.2007.
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